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| Planning Advisory Service |
| PAS Development Management Challenge Toolkit |
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| Decision and conditions |



# Introduction

The decision and conditions forms one of 15 sections of the PAS Development Management Challenge Toolkit. Please refer to the complete document for information on the other 14 sections and further background to the toolkit.

Councils have different schemes of delegation to decide which decisions need the scrutiny of Members and need to held in public. However whichever scheme of delegation is agreed it needs to be clear, transparent and unambiguous. The final decision must equally be clear, transparent and unambiguous so the applicant is clear what further they need to do to implement their proposal whether that is through a resubmission, appeal or the discharge of conditions. This should not be held up unnecessarily through the poor use of conditions or ambiguity with the S106 agreement process. All Planning Authorities should continuously review their decision making process to improve the service they provide.

Please consider the statements below that attempt to define what an excellent and poor Planning Authority looks like and then consider some tips to improve performance. The purpose of defining poor and excellent is meant to be controversial and to stimulate debate within a Council. The tips will work for some Councils and not for others because every Council is different and therefore has different priorities for improvement. The tips are also aimed at getting Planning Authorities to think about solutions and to work through challenges in bite size ways rather than being overwhelmed by the problems it faces.

# How to use it

For each part discuss where you feel your Council sits on a scale from 1 (poor) to 5 (excellent). If you disagree with one another (which you are likely to do) discuss why you have different views as perception is a really important factor in improving how things are done. Ultimately the final score is not as important as what you are going to do about it. However it is really important to write down why you have either agreed on a score or why you can’t decide on a score. This will help you to understand where you are as a service on the journey between poor and excellent and if you don’t write it down you will have no record of why you came to those conclusions.

Next look at the ‘top tips’ and actions you want to take from the session. Which tips are you going to take on board and which are you going to dismiss? – it is ok to say a tip is not for you as long as you know why. Then if you decide you want to take forward a tip decide how you are going to implement it. Some you simply need to do and others may involve outside support such as from PAS. Also consider what other actions have come out of the discussion. Encourage all staff taking part in the session to generate other ideas and actions to help you develop an action plan.

Finally decide what score you would like to be. It may seem obvious that you always will want to be a 5 (excellent) but this is not always the case as it depends on where you want to focus your priorities as a service. For example how important is monitoring performance to your service? All Planning Authorities will want to monitor speed and quality of decision making as these are the minimum benchmarks set by Government but you will then need to balance the time spent in collecting information about all areas of the Development Management process against the staff resources you have to deliver an excellent service. Only you will know whether you want to reach a 5 or whether you may be happy to be a 3 or 4. However again it is really important to write down why you have settled on a particular score.

Following pilot work on the toolkit each section usually takes about an hour to an hour and a half to complete. However the time you spend on each section very much depends on how much discussion and disagreement takes place – it will sometimes be shorter and sometimes longer. Also some sections are longer than others so there will inevitably be a difference in time spent on each.

When you have completed the sections that you feel are important to your service you should be in an excellent position to prepare your own action plan of improvement in the format that is appropriate for your organisation. However it is also really important to use the toolkit to reflect back on the things you are doing well and therefore do not need to change. Do not simply dwell on the negatives but celebrate success and promote best practice within your service. It is really important when Planning Departments are struggling with resourcing and workload presssures to celebrate with staff good practice and a job well done.

# How to involve staff in the discussion

Managers will have a particularly important role in the feedback the service receives from applicants and Members on the decision making process. However all staff will be able to take an active role in the discussion from the management of Planning Committee agendas, to practical difficulties in getting decisions agreed to any subsequent complaints that might be received by the service.

# Facilitator’s tips

* Ask yourself challenge questions such as: Do we agree with excellent? Do we agree with poor? Are the tips helpful? What do we need to do if anything to change?
* Make sure you have someone to write down your conclusions and check what has been written before moving on to the next session. It is really important to ensure everyone’s thoughts are represented accurately
* The scores are there to help you conclude the effectiveness of your Development Management service but do not spend too long debating the scores, they are only there to give you guidance
* As always it is about getting the right people in the room and making them comfortable to contribute. Some staff may feel that their contribution is not as important as others. Make sure it is inclusive and everyone’s views are given equal weight
* Some staff may feel uncomfortable when some topics are discussed. Ultimately you need to decide whether all staff should be involved in the whole session, but the toolkit works best when staff are able to express their views openly without fear of repercusssions.
* This process can work really well with people from different councils so that services can learn from each other and suggest ways of working together in future.
* Many issues that people identify can be tackled at a number of different levels. Encourage people to think of what they could just do on Monday, as well as the bigger trickier things that need buy-in.
* Always agree a follow up action plan that will result from the discussions, otherwise the ideas, enthusiasm and momentum will be lost.

# For more information & Help

If you would like more information about any aspect of the Development Managament Challenge Toolkit or would like to take part in or organise a facilitated improvement session please contact Planning Advisory Service[**pas@local.gov.uk**](mailto:pas@local.gov.uk)**.**

To help you progress your action plan there is a range of support available on the PAS website along with links to other helpful sources of information. Please visit the website at <https://www.local.gov.uk/pas>

| **A poor Development Management Service (score 1)** | **An excellent Development Management Service (score 5)** | **Top tips** |
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| The scheme of delegation has not been reviewed for many years and a lot of the items go to Committee because the scheme of delegation says so not because they are contentious. The agenda therefore is long and often difficult to manage in a single session. There are often arguments between Members and officers whether an item should be on the Committee agenda because the scheme of delegation is ambiguous. | There is a clearly thought out scheme of delegation that all councillors are happy with and understand. This means that only the most contentious applications go to the Committee or if there are probity issues (e.g. employee applications). The Committee agendas are manageable because there is an effective scheme of delegation. | 1. Regularly review your scheme of delegation with Members of the Committee to ensure it meets the Council’s requirements 2. Regularly remind all councillors of the delegation criteria and encourage them to inform their constituents 3. Monitor the percentage of items going to Committee. If there is little or no debate on an item discuss whether the scheme of delegation needs to change 4. Use best practice from other Councils. Do not be afraid to copy from others |
| **SCORE: (out of 5)**  **Why this score?**  **What score would you like? (out of 5)**    **Why this score?** | | |
| The decision making thought process is unclear. The officer report jumps from one issue to another and there is no clear conclusion. Therefore an interested party is not clear why there is an officer recommendation to approve or refuse. | The officer report ensures that the decision making process is clearly set out. The issues are set out making it clear why an issue is considered acceptable or unacceptable and it leads to a logical conclusion e.g. it is clear how an objection is addressed through amendments or conditions | 1. Use an officer report template to steer the case officer to go through a logical process to conclusion 2. Provide either in-house or external officer report training for staff who are new to report writing or who struggle to write clear reports |
| **SCORE: (out of 5)**  **Why this score?**  **What score would you like? (out of 5)**    **Why this score?** | | |

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| There is a default position of putting a condition in place to avoid any risk. Pre commencement conditions are not clearly identified and there is often a discussion post decision whether a condition is actually a pre commencement condition or whether another trigger point may be acceptable. Applicants often complain that there are too many conditions particularly since the Council is poor at discharging conditions in a timely manner. If a consultee asks for a condition it is normally included without question by the case officer as *they are the experts*. | There is a robust approach to minimising pre commencement conditions. Other conditions are minimised through effectiveness negotiation with the applicant prior to a decision being issued and case officers challenging consultees when they suggest conditions. | 1. Have a selection of trigger points that you can use as labels to conditions e.g. pre-damp proof course level; pre occupation; pre commencement of x units etc 2. Provide guidance to case officers on good condition wording and undertake training for officers either in house or using external providers 3. Have a list of condition wording that case officers can use but ensure that case officers do not simply cut and paste standard wording but adapt the wording to meet the requirements of the application in question |
| **SCORE: (out of 5)**  **Why this score?**  **What score would you like? (out of 5)**    **Why this score?** | | |
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| S106 agreements are normally negotiated once other matters have been agreed and therefore at the end of the decision making process. There is often a delay whilst each side has to find resources to prepare the documents and usually it results in the applicant producing a draft that the Council responds to rather the other way round. Planning decisions that require a S106 agreement hardly ever meet deadlines on performance and therefore go over time and sometimes results in complaints from the applicant due to time delays. | Applicants are asked to suggest heads of terms for S106 agreements at validation stage along with key information such as land ownership details and contact points for solicitors. The Council also sends the applicant a template for S106 agreements. In this way an early start can be made of drafting a S106 agreement and legal teams from both sides are lined up and can programme in their time. As a consequence S106 agreements can usually be signed within the agreed decision timeframes. | 1. Work with the Council’s Planning lawyer to produce S106 model templates and publish these on the Council’s website so that applicants know what to expect. 2. Have a regular catch up meeting with the Planning lawyer to track progress on S106 agreements, advise of future work and address problems that have occurred 3. Insist on certain information being provided as part of a local validation list e.g. heads of terms, legal contact details and land ownership information |
| **SCORE: (out of 5)**  **Why this score?**  **What score would you like? (out of 5)**    **Why this score?** | | |

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| Feedback on decisions usually takes the form of formal complaints where the Council attempts to defend its position on quality or speed or an appeal decision. There is no mechanism in place for applicants to feedback comments on the decision making process and therefore there is no continuous learning. | There is an opportunity for applicants and agents to feedback on planning decisions. For example they may be encouraged to fill out an online feedback form after receiving their decision notice and there are regular agents forums for agents to feedback on general decision making. The managers also have an open policy of encouraging feedback. All feedback is used as an ongoing learning process which is discussed with staff and managers on a regular basis. | 1. Send a link to a feedback form with every decision notice and ensure the information is collated to separate those who have received approval and those who receive a refusal 2. Give agents the opportunity to discuss decision making with the service. This does not always mean having to have a physical meeting but could involve chat facilities 3. Use feedback in a positive way by have a learning through experience feedback policy and ensure all staff can both see this feedback and use it for future learning 4. Introduce a culture where all feedback is used positively to improve the service provided |
| **SCORE: (out of 5)**  **Why this score?**  **What score would you like? (out of 5)**    **Why this score?** | | |

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| **Actions to follow up and tips you will you be considering?**  **Which tips are helpful?**  **Actions to take forward** |